PHILADELPHIA GAS WORKS
800 West Montgomery Avenue • Philadelphia, PA 19122

Brandon J. Pierce, Esq.
Senior Attorney | Legal Department
Direct Dial: 215-684-6219
E-mail: Brandon.Pierce@pgworks.com

November 2, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, 1 North
400 North Street
Harrisburg, PA 17120

Re: Comments of Philadelphia Gas Works on the Advanced Notice of Proposed Rulemaking Re: Natural Gas Distribution Company Business Practices, 52 Pa. Code § 62.225
Docket Number L-2017-2619223

Dear Secretary Chiavetta:

Please find attached the Comments of Philadelphia Gas Works ("PGW") in the above-docketed proceeding.[1] Please contact me if you have questions.

Respectfully,

Brandon J. Pierce, Esquire

Enclosures

cc: Kriss Brown (kribrown@pa.gov), Law Bureau
Nathan Paul (npaul@pa.gov), Bureau of Audits

[1] The Public Utility Commission's daily action at this docket number indicated that comments were due on November 2, 2017, while the due date based on publication in the Pennsylvania Bulletin was October 31, 2017. The Energy Association of Pennsylvania ("EAP"), of which PGW is a member, sought clarification from the Commission, which indicated that it would deem comments submitted until November 2 as timely filed.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking Natural Gas	:	
Distribution Company Business Practices	:	**Docket No. L-2017-2619223**
52 Pa. Code § 62.225	:	

COMMENTS OF PHILADELPHIA GAS WORKS

I. INTRODUCTION

Philadelphia Gas Works ("PGW" or the "Company") submits these Comments in response to the Pennsylvania Public Utility Commission's ("PUC" or "Commission") August 31 2017 Advanced Notice of Proposed Rulemaking Order ("ANOPR") inviting interested parties to submit written comments about amending and adding to the Commission's regulations at 52 Pa. Code § 62.225.[1] These regulations address the release, assignment, and transfer of capacity among Natural Gas Distribution Companies ("NGDCs", also referred to as "Local Distribution Companies" or "LDCs") and Natural Gas Suppliers ("NGSs"). The Commission states that the proposed changes are the result of the Commission's Natural Gas Retail Markets Investigation ("RMI") and are intended to improve the competitive market by revising how capacity is assigned and addressing related issues including penalties and imbalance trading.

PGW appreciates the opportunity to submit these comments.[2] PGW submits that the best path forward for customers, NGDCs, and NGSs is to provide individual LDCs with maximum flexibility as to its capacity release, assignment, and transfer mechanisms that are best suited for

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[2] PGW is also a member of the Energy Association of Pennsylvania (EAP) and incorporates their Comments into these Comments.

their individual distribution system designs, peak day demands, and upstream transmission pipelines. As such, PGW does not believe it is necessary for the Commission to amend its current regulations. To the extent that the Commission determines that it will implement new or amended regulatory language, PGW submits that the language should be optional and include specific provisions that permit NGDCs to fully recover any costs of implementing the changes.[3] Finally, PGW would respectfully request that prior to issuing any determination, the Commission convene an in-person, technical conference that include all stakeholders prior to implementing any changes.[4]

II. COMMENTS

a. Uniform Capacity Costs for all Customers

In most Pennsylvania NGDCs' service territories, including PGW's, capacity is released for shopping customers and paid for by the NGS providing service.[5] Peoples Natural Gas Co. ("Peoples") releases capacity; however, instead of NGSs paying for it, all customers pay the average system cost of capacity, regardless of whether they participate in the shopping market. The Commission has proposed, in the ANOPR, that Peoples' approach to capacity payment be replicated across the Commonwealth, citing as a "possible" benefit, risk reduction to all market participants (NGDCs, NGSs, and customers).[6]

[3] PGW has not included specific cost estimates of changes, as it is not able to determine how the Commission would implement its proposals as this point. However, PGW believes that the changes proposed by the Commission would be substantial.

[4] The specific proposals in the Commission's ANOPR are different than earlier proposals discussed during 2015 as part of the Commission's NG RMI, and therefore, lend themselves to in-person technical conferences. This is especially true, as noted in EAP's Comments, given that the 2015 process did not provide the opportunity for stakeholders to see one another's comments.

[5] Capacity release charges are based on maximum pipeline Tariff rates approved by FERC.

[6] See ANOPR at 8-9.

PGW raises several significant concerns related to this change. Under the current structure, when PGW releases capacity to suppliers, those suppliers pay PGW for the capacity. Those payments go to the purchased gas cost rate ("PGC" or "GCR"). Under the Commission's proposal, the suppliers would no longer have to pay for the capacity. Rather, all customers would pay for the capacity. Suppliers would still receive the capacity, and when a supplier re-releases capacity, the NGS would then able to keep any payments generated from that—rather than it being returned to PGW's customers. Second, this change shifts the risk of collecting costs to the NGDC, which then shifts the risk to paying customers. Currently, PGW posts a capacity release notice on its electronic bulletin board ("EBB") and notifies suppliers that they need to go to the EBB to purchase the capacity. The pipelines give PGW a credit for the capacity that the NGSs purchase. PGW applies that credit 100% to its GCR customers to reduce expenses thus lowering the GCR.

Second, while the Commission has proposed language that seeks to address the issue of contracts, PGW is concerned about the feasibility of incorporating myriad interstate pipeline contracts for a multitude of different services into its billing system.[7] Such wholesale changes could require significant modifications to PGW's billing systems and retail systems. Changes of this nature and breadth will necessarily be a costly endeavor. PGW has concerns about who will pay for those modifications: will customers bear the costs or will NGSs?

Billing system costs, and further complexity in rates are concerning. In order to bill all customers equally for only its firm transportation capacity it could require a break out of billing within the GCR (potentially at least four charges). Additionally, it would require a true-

[7] It is unclear if the non-bypassable charge proposed in §62.225(a)(3) includes both transportation and storage demand charges. PGW's comments assume transportation demand charges only, but the Company's comments would be similar if the intent is to also include storage demand charges.

up/reconciliation mechanism, further complicating customer bills and potentially impeding accurate market signals to customers. These issues could create significant costs for PGW. In order to fully understand the costs associated with the changes preliminarily proposed in this docket, there are a number of questions that should be addressed, and as such, PGW requests that the Commission convene a technical conference for all stakeholders.

Another unresolved question is whether PGW's billing/billing format would require revisions. Such changes could be costly and require a significant amount of time to code, test, train and implement. PGW submits that an in-person technical conference would help NGDCs and other stakeholders fully understand the Commission's intentions and vision, and cost out such intentions.

Third, PGW does not release storage capacity—suppliers balance off of PGW's storages, including LNG, and PGW charges a Load Balancing Charge ("LBC") which it would still propose to do. As such, the equal shared cost to all customers would be only for the firm transportation capacity and charge suppliers the LBC as PGW does now.[8]

Fourth, PGW believes that a one-size fits-all approach may not be the most effective method for handling capacity release. While Peoples' structure works—and has been designed—for its specific system and needs, it does not work for a utility like PGW that does not sit in or near supply basins (production areas), and therefore, has much higher capacity costs than Peoples. PGW respectfully recommends that the Commission continue to provide NGDCs with the flexibility necessary to release capacity in the best interests of its ratepayers and the NGSs that serve (or wish to serve) each NGDC's territory. This matter also lends itself to further discussion at the requested technical conference.

[8] This ties into the discussion in the following section, *see* Section II.B, *infra*.

PGW proposes that the Commission leave the regulations unchanged from its current state. In the event that the Commission adopts the proposed language or other language implementing uniform capacity costs across Pennsylvania, PGW would propose that the Commission add language that permits a full cost recovery mechanism or clarifies that full cost recovery is permissible under 66 Pa. C.S. § 2205(c)(7). These issues could also be developed further by all stakeholders at a technical conference.

b. Capacity Assignment from all Assets

NGDCs have some restricted assets that may not or cannot follow normal capacity assignment procedures. These assets include LNG assets, 7C contracts,[9] and critical capacity or capacity viewed by NGDC as vital to reliability and the integrity of its system. The Commission has proposed "virtual access" to restricted assets to provide NGSs with the ability to "utilize and benefit from the asset but still provides overall control to the NGDC for reliability assurance."[10] The Commission recognized that giving access to some facilities may raise reliability and/or operational problems, and therefore, proposes this "virtual access" as a solution. Further, the Commission proposes that to protect reliability, use of a restricted asset would be communicated to, and approved by, the NGDC before it acts on the NGS's request, and would be based upon pre-determined rules.

PGW meets its peak day demand through a combination of flowing gas, off-system storage, and on-system storage (LNG). PGW's firm suppliers balance off of PGW's assets on a daily basis. Those suppliers may avail themselves of this service throughout the whole year, and

[9] "7C" refers to Section 7(c) of the federal Natural Gas Act, 15 U.S.C. § 717f(c) regarding facilities "grandfathered" before FERC Order No. 636 unbundled service. *See* PAUL W. PARFOMAK, INTERSTATE NATURAL GAS PIPELINES: PROCESS AND TIMING OF FERC PERMIT APPLICATION REVIEW 1 (Congressional Research Service Report R43138, January 16, 2015), which can be found at https://www.fas.org/sgp/crs/misc/R43138.pdf.

[10] ANOPR at 13.

then pay PGW back with gas in-kind during the historic refill season (April through October).[11] Additionally, PGW's Gas Supplier Tariff includes a Load Balancing Charge, which charges firm suppliers a quarterly adjusted rate for gas fulfilled by PGW's off-system storage assets to recover the related off-system storage demand charges.[12] PGW respectfully requests that the Commission convene a technical conference to further expound on what elements of NGDCs' restricted assets would qualify as providing "virtual access" and how to manage any such arrangements to adequately protect the LDC's system reliability.

PGW further submits that capacity assignment of restricted assets is best managed on an individual NGDC basis to account for distinct service territory and system design characteristics. As such, PGW would propose that no changes are necessary to the Commission's regulations on this issue and would request that the Commission hold a technical conference with all stakeholders to further discuss this matter.

c. Imbalance Trading

The Commission has proposed that imbalance trading between market participants "should be a market feature."[13] The Commission notes that for some NGDCs, "this change may require information technology upgrades as well as increased real-time communication."[14] Further, the Commission states that NGDCs may also need to make other changes to their programs, such as mismatches in tolerance bands and penalty structures, while also placing emphasis "on provisions that would customize imbalance trading for each participant."

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[11] PGW Gas Supplier Tariff at 38.

[12] *Id.* at 39.

[13] ANOPR at 15.

[14] ANOPR at 15.

Imbalance penalties are the NGDCs' check to ensure that suppliers are not overloading the system and play an important role in the reliability of its distribution system. Also, in the case of PGW, imbalance penalties for interruptible transportation pools deter winter operating season undersupply when commodity costs are higher, and deter utilizing storage and limited LNG reserved for firm customers. On these bases, PGW is opposed to daily imbalance trading for its interruptible transportation suppliers,[15] but may be amenable to interruptible transportation suppliers trading imbalances at the end of the month. Trading at the end of the month would help ensure better reliability than daily imbalance trading. However, before PGW could support such a proposal, it would need more developed information that could be provided through an in-person technical conference with all stakeholders.

Furthermore, PGW agrees with the Commission that significant technology and system upgrades would be necessary to accommodate daily imbalance trading, as PGW's current system is not able to communicate with suppliers in real-time. Such upgrades would necessarily be costly. These costs would include, but would not be limited to, advanced meter upgrades across PGW's distribution system and billing system upgrades. A new Retail Choice imbalance trading module on PGW's EBB would also have to be conceived, developed, installed, and tested, the costs of which are currently unknown at this time, but are likely to be not insignificant.

While PGW may come to support some form of interruptible transportation trading as described above, PGW does not support trading between interruptible and firm transportation supplier pools. Such a mechanism would be problematic because it could permit NGSs to

[15] PGW has firm and interruptible transportation customers. PGW's firm transportation customers have not been out of balance because PGW forecasts and communicates daily delivery quantities ("DDQ") to each supplier. The aggregated difference between the DDQ and actual use is accumulated during the November to March heating season and then adjusted to zero on a prorated basis by suppliers over- or over-delivering in-kind gas in the months April to October. Suppliers have always delivered the DDQ so a penalty for this imbalance has never been applied. Therefore, imbalance trading for those customers is unnecessary in PGW's system.

manipulate the pools to create arbitrage opportunities that profit the NGSs at the expense of an NGDC's ratepayers, thus driving up system costs for all customers.

PGW also submits that any daily imbalance trading mechanisms should be optional and at the sole discretion of the NGDC, based on the distinct characteristics of each LDC's distribution system, technology requirements, and costs.[16] As such, PGW would recommend no changes to the current regulations, at least until after the Commission convenes a technical conference to address these issues—which PGW respectfully requests.

d. Penalty Structure during Non-Peak Times

The Commission recognizes the importance of penalties as a necessary element of the retail gas markets for system integrity and reliability reasons. The Commission has also stated that "within each NGDC, there is a difference in penalty structure during peak demand periods and off-peak demand periods", with penalties being higher during peak times.[17] The Commission has proposed a standardized penalty mechanism for all Pennsylvania NGDCs during off-peak periods that is "both fair and adequate is needed to reduce barriers to participation in the retail natural gas market."[18] In the Commission's view, this may be appropriately accomplished through a market-based penalty that is based on each NGDC's local gas costs with "a straight multiplier."[19] The Commission cites to UGI's formula approach in its tariff and proposes that similar language be added to all NGDC supplier tariffs. Additionally, the Commission requested comments on whether NGSs who intentionally help an NGDC correct an imbalance should be

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[16] Interstate transmission pipelines utilize rules that differ by pipeline, location, and individual characteristics in their FERC-approved tariffs.

[17] ANOPR at 17.

[18] ANOPR at 17.

[19] ANOPR at 18.

rewarded and whether NGDCs should be required to exempt an NGS from a penalty where the NGS's imbalance benefits the NGDC's daily balancing position.

PGW's current penalty structure operates effectively to balance the need to maintain the reliability of its system with market considerations and would propose no changes to that mechanism. By way of further explanation, PGW does not have different peak and off-peak penalties.[20] PGW does have different penalty structures for its firm and interruptible transportation suppliers.[21] PGW's penalties for firm transportation, found in its Gas Supplier Tariff, state:

> 9.10. The Company is not obligated to accept any quantities nominated by a Supplier in excess of its DDQ. As to quantities exceeding the DDQ, the Company may either refuse to confirm said quantities, in conjunction with appropriate interstate pipeline confirmation protocol. The Company will not be liable for any cost incurred by the Suppliers, resulting from pipeline nominations in excess of the DDQ. In the event the Company is unable to reduce the Supplier's deliveries to the DDQ level, the Supplier shall pay the Company a penalty equal to the greater of fifty dollars ($50.00) per Dth or two hundred percent (200%) of the highest of the prices for delivered gas supplies published in Gas Daily for points located in Texas Eastern M-3 and Transco Z6 (nonNY), which are applicable to the calendar day in which the excess deliveries were made on the positive difference between the amount delivered by the Supplier and the DDQ, plus all costs incurred by the Company as a result of the Supplier's over-delivery. Over-deliveries in one (1) day do not satisfy under-deliveries in another day, nor will under-deliveries correct previous overdelivery of supply.
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> 9.11. To maintain system reliability and integrity, the following penalty charges will apply for Supplier's failure to deliver the entire DDQ to the Company. This reconciliation is done on a daily basis. Suppliers who fail to deliver the DDQ established by the Company will be subject to a penalty equal to the greater of fifty dollars ($50.00) or two hundred percent (200%) of the higher of the prices for delivered gas supplies published in Gas Daily for Texas Eastern M-3 and Transco Z6 (non-NY), which are applicable to the calendar day in which the

[20] Another factor for the Commission's consideration is that traditional notions of off-peak and on-peak are changing due to increased use of natural gas a fuel source for electric generation.

[21] The discussion that follows focuses on PGW's daily imbalance penalties and not its monthly penalties, as per the Commission's instruction in the ANOPR. PGW does have monthly imbalance penalties for interruptible suppliers as well.

> deficient deliveries were made. The Supplier will also pay all costs incurred by the Company to obtain gas volumes needed to rectify the deficiency. [22]

PGW's penalty structure for interruptible transportation suppliers is found in its Gas Service Tariff and states:

> (c) Allowable Daily Variation. The daily usage quantity must be within plus or minus ten percent (+/-10%) of the daily receipt quantity.
>
> (d) Daily Imbalance Surcharge. Supplier shall be charged $0.50 for each Dth outside the applicable allowable daily variation.
>
> (e) Daily Market Index Price. The prices published each day in Gas Daily (or successor publication or where none exists a publication selected by the Company) under the heading "Citygate Prices" for deliveries at "Texas Eastern M-3" and "Transco Z6 [non-NY]" (or applicable headings of a successor publication.) Whenever a price is published as a range, the value used for that day would be the midpoint of the range.[23]

PGW's daily imbalance penalty structure is designed to protect the reliability of its system by providing appropriate penalties. Further, this structure is designed to accommodate PGW's specific reliability needs, which are in turn, based on the design of PGW's distribution system and peak day demands. Additionally, PGW believes that each NGDC should be provided maximum flexibility to design penalty mechanisms that best fit its unique distribution system needs. PGW would, therefore, recommend that no changes be made to the current regulations.

The Commission also requested comments on whether NGSs who "intentionally 'help' an NGDC correct an imbalance should be rewarded (market cost of gas plus a portion of the penalties levied) if a penalty was levied on a different entity(s) who caused the imbalance."[24] PGW first notes that this situation is not applicable to its firm daily penalties, as no penalties are

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[22] PGW Gas Supplier Tariff at 37.

[23] PGW Gas Service Tariff at 104.

[24] ANOPR at 20.

incurred if the supplier delivers the amount PGW requests. Regarding PGW's interruptible transportation suppliers, the reward for daily and monthly suppliers who help correct an imbalance is that the penalties are lower. PGW also reimburses the supplier for excess gas delivered. At this time, PGW would request that the Commission convene a technical conference to discuss the issue further.

The Commission also invited the parties to comment on whether NGDCs should be required "to exempt an NGS from a penalty where the NGS's imbalance benefits the NGDC's daily balancing position."[25] PGW would again note that this is not applicable to its firm daily penalties. In that context, whether a firm supplier delivers too much or not enough gas, it would not benefit PGW's position. It would only downgrade PGW's daily position. For the interruptible transportation pools, suppliers have the ability to manipulate the amount of gas they deliver each day to lower their monthly imbalance. PGW's current penalty structure is set up to prevent suppliers from not delivering gas on a day when the price spikes. For example, it would benefit a supplier(s) to not buy and deliver high-priced gas, and PGW would be forced to supply the gas, including from its limited LNG reserve, and the penalty would be less than what the supplier would have paid for the gas. As such, PGW would not support any exemption from its penalty structure at this time. PGW does not view a situation where an NGS would benefit PGW's position; rather, PGW views this as opening the door to potential manipulation and/or arbitrage at the expense of PGW's ratepayers and the reliability of PGW's system. PGW, therefore, would not support changes to the Commission's regulations at this time. PGW is, however, amenable to, and would respectfully request, that the Commission convene a technical conference so the stakeholders are able to discuss this issue.

[25] ANOPR at 20.

III. CONCLUSION

Philadelphia Gas Works appreciates the opportunity to provide these Comments in response to the Commission's Advanced Notice of Proposed Rulemaking Order about amending and adding to the Commission's regulations at 52 Pa. Code § 62.225, which address the release, assignment, and transfer of capacity among Natural Gas Distribution Companies and Natural Gas Suppliers. While PGW does not support changes to the current regulations at this point—as described in its Comments—PGW respectfully requests the Commission to convene an in-person, technical conference for interested stakeholders. To the extent that the Commission intends to implement any regulatory changes, those regulations should be based on the outcome of the technical conference and should be optional and/or provide maximum flexibility to the NGDCs. This will ensure that each utility is able to implement those mechanisms that are to the benefit of each NGDC's customers and unique distribution system designs and reliability concerns. Finally, any changes to the regulations must include a full cost recovery mechanism for NGDCs. PGW looks forward to continuing to work with the Commission and other stakeholders on this important initiative.

Respectfully Submitted,

Brandon J. Pierce, Esq.
Pa. Attorney No. 307665
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA, 19122
Brandon.Pierce@pgworks.com

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